THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Misc. W.P. (M/S) No. 3117 of 2001
(Old CMWP No. 6917 of 1997)

The Kishan Sahkari Chini Mills Ltd. Rajpur Nadehi, District Udham Singh Nagar.

… **Petitioner.**

Versus

1. The Authority, Under The Payment of Wages Act, 1936/Assistant Labour Commissioner, Kumaun Region, Haldwani, District Udham Singh Nagar.
2. Mangla Son of Sri Nanhey and 55 other workmen through Vice President, Janta Chini Shramik Sangh, Rajpur Nadehi, District Udham Singh Nagar.

… **Respondents**

Sri R.K. Raizada, learned counsel for the petitioner.
Sri Nand Prasad learned counsel for the respondent No.1.
Sri Davesh Vishnoi, Adv. learned counsel for the respondent no.3.

Date August 02, 2006.
Hon'ble B.S. Verma, J.

Heard learned counsel for the parties and perused the material on record.

By means of this writ petition, the petitioner has prayed for issue a writ, order or direction in the nature of certiorari for quashing the impugned order dated 16.1.1997 (Annexure No. 5) passed by the Authority, under the Payment of Wages Act Haldwani (***for short the Authority***) has rejected the amendment application moved by the petitioner-opposite party before the Authority.

The only prayer made in this writ petition by the petitioner is that the amendment sought for to be incorporated in the written statement filed by the employer are essential for a just decision of the case and the delay in filing the application before the Authority was bona fide and not at all deliberate.

The learned counsel for the petitioner has urged that the amendment sought for in the written statement is not in respect of disputed facts but the same is legal in nature and it was also submitted that in the interest of justice, it is settled law that the courts should take liberal view in condoning the delay. The petitioner has filed copy of the amendment application as Annexure No. 4 to the writ petition.

Having considered the rival contentions of both the parties and looking to the fact that the court below has rejected the application on the ground of delay in filing the application. I have also perused the amendment sought to be incorporated in the written reply. It is discretionary power of the Court to condone the delay with liberal view. It has not been challenged that the by way of amendment, the nature of the defence is being substantially changed. The learned counsel concedes that the amendment sough for is legal in nature. In this view of the matter, I am of the view that for a just decision of the case and to avoid multiplicity of litigation, it will be in the ends of justice to condone the delay and the amendment application (Annexure-4) deserves to be allowed.

The writ petition is accordingly allowed. The order dated 16-1-1997 under challenged is set aside. The delay in filing the application for amendment is condoned and the amendment application is allowed. It is provided that the respondent no. 1 shall permit the opposite party-petitioner to amend the written statement within a period of two weeks from the date of production of certified copy of this order and the Authority concerned shall decide the matter preferably within a period of three months next thereafter as far as possible. Both the parties shall co-operate with the court concerned in expeditious decision of the case before the respondent no. 1. No order as to costs.

(B.S. Verma, J.)

RCP